

Fighting Hawaiian Discrimination

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eral court. After extensive discussion with OHA, legislators in 1993 authorized \$136 million in back payments to OHA for the years 1980 to 1991.

In January 1994, the controversy continued when OHA filed a lawsuit against the state of Hawaii, demanding more money from ceded lands, arising from receipts of the Waikiki-DutyFree shop, public housing, the Hilo hospital and investment earnings. In October 1996, state Circuit Court Judge Daniel Heely ruled the state should pay more than the \$136 million to OHA it already paid in back claims. The media estimated the amount would be between \$300 million and \$1.2 billion more. After much debate and negotiation, the state appealed Heely's ruling in the Hawaii Supreme Court, and the court reversed the decision in September 2001.

"Reversing the 1996 Heely decision is a big step forward and it blew away a black cloud hanging over the state's economy for the last five years," Burgess says.

The other agency the Burgesses are targeting is the Department of Hawaiian Home Lands, formed in 1921. The agency manages 200,000 acres of land statewide that it distributes to people of 50 percent or more Hawaiian blood, who can get homestead leases for 99 years at \$1 per year. However, the agency is not well adminis-

tered, critics, including Burgess, say. Many Hawaiians have died on the waiting list, hoping to their final breath for property because the infrastructure is not built.

"These two programs have been the main sources of the plight of Hawaiians today," Burgess says. "They have created a poverty trap. Rather than help the Hawaiians, now 50 percent of Hawaiians are dependent on the state and federal government, and the government has taken away their incentive to be a part of the American economy or democracy."

The Burgesses say they don't believe people already on Hawaiian lands should be kicked out or have their benefits taken away, but rather Hawaiians should be given the lots of land to sell or keep as if it was their own property. Right now, Hawaiians on home lands can't mortgage or sell their property.

Besides working to shut down OHA and the Department of Hawaiian Home Lands, William and Sandra have looked for other ways to level the playing field for all of Hawaii's races.

Together they wrote for the *Hawaii Bar Journal* in July 2001 the "Ceded Lands Case: Money Intended for Education Goes to OHA." They filed an amicus brief in OHA vs. State 1999 challenging the validity of OHA. And most publicly, they brought suit in federal court with 13 plaintiffs against the state of Hawaii, in *Arakaki vs. State of Hawaii* 2000, which invalidated racial

restrictions on those running for or serving on the OHA board of directors.

"Big Island rancher Freddie Rice took his case to the United States Supreme Court and won," Burgess says. "The Supreme Court justices decided it was wrong for the state to deny vot-



ing rights to non-Hawaiians wanting to vote for OHA trustees, based on the 15th Amendment in the U.S. Constitution. Our case filed in U.S. District Court asked the court to take that decision one step further, saying the state Office of Elections must allow non-Hawaiians not only to vote, but to run for the OHA seats. U.S. District Court Judge Helen Gillmor ruled in our favor in September of last year based on the 14th and 15th amendments."

Part of Burgess' sensitivity to racial issues comes from being raised in the South during the segregation of blacks and whites.

Sandra, who is a half Chinese, a quarter Hawaiian and a quarter Filipino, never felt she should have more privileges than others

in Hawaii, simply because of her Hawaiian ancestry.

It was a chance meeting in 1971 in the laundry room in the basement of their Harbor Court condominium for William and Sandra. Both were recently separated from their spouses, but they began dating, marrying seven years later in 1978. They had five children between them from previous marriages, and today are grandparents six times over.

Both have a passion for sports, particularly running, and Sandra says her husband helped generate her love for running. William competed in several sports competitions, including three Ironman triathlons. Sandra is now an ultra runner, and William says he cannot keep up with her any longer.

Burgess was athletic since his youth, on the varsity boxing team at the University of Virginia. After attending the University of Virginia Law School and graduating in 1953, he enrolled in the U.S. Marine Corps from 1953 to 1958 as a fighter pilot and legal officer.

Once out of the military, Burgess joined the law firm of Carlsmith & Carlsmith in 1958, leaving in 1962 to join A. William Barlow in his law practice for three years. In 1965, Burgess opened his own law office, where he focused full time on business and real property litigation. From 1969

to 1972, he was the volunteer president of the Legal Aid Society. And in 1979, Burgess was one of the founders and first president

of the Neighborhood Justice Center of Honolulu, now called the Mediation Center of the Pacific. In 1994, he retired from his practice and became a trustee for a Maui shopping center in Chapter 11 reorganization.

He and Sandra continue to dedicate a great deal of time to changing Hawaii's politics and viewpoint surrounding Hawaiian issues.

"I moved to Hawaii in 1956 because it represented a melting pot — all races lived together in harmony. Today, the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands and the other 150 state and federal programs that benefit one race — Hawaiians — keep the drumbeat that Hawaiians have been wronged and that because of injustices they cannot make it in the world.

"They are a divisive force and we will do what we can to change this by pushing to rid Hawaii of these agencies and programs in a way that is not harsh or unfair, especially to the homesteaders in need."

The Burgesses say they are advocates of aloha for all and believe their work will preserve democracy in Hawaii.

"American democracy," he says, "fits perfectly with the aloha spirit. It is not for people with just one ancestry."

For more information, check out the Aloha for All Web site at www.aloha4all.org or email hwburgess@hawaii.rr.com